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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/623,478	07/18/2003	Steven D. Joder	I-23428	4551

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EXAMINER

MALHOTRA, SANJEEV

ART UNIT	PAPER NUMBER
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3693

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	02/05/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary	Application No. 10/623,478	Applicant(s) JODER ET AL.	
	Examiner Sanjeev Malhotra	Art Unit 3693	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 18 July 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-16 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-16 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 18 July 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input checked="" type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

This is the first Office Action in response to the application filed on July 18, 2003 and titled: "Method, Apparatus and System for Quality Performance Evaluation of a Supplier Base".

Drawings Objections

The Drawings (Fig. 1 to Fig. 5 on six sheets) submitted by the Applicant were received on July 18, 2003. Form 948 is attached herewith documenting the objections raised by the USPTO's Draftsperson.

New corrected drawings in compliance with 37 CFR 1.121(d) are required in this application because of the deficiencies noted in attached USPTO Form 948 incorporating our Draftsperson's review. Applicant is advised to employ the services of a competent patent draftsman outside the Office, as the U.S. Patent and Trademark Office no longer prepares new drawings. The corrected drawings are required in reply to the Office action to avoid the abandonment of this application. The requirement for corrected drawings will not be held in abeyance.

Priority Date Claim Objections

This application was filed on July 18, 2003 and it is a CONTINUATION of an international PCT application filed on January 18, 2002, and the aforesaid international PCT application claims priority from three (3) US provisional

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applications filed in the year 2001, with the earliest one going as far back as January 18, 2001 (#60/262,867) and this application '867 consists of three (3) pages of Specification and two (2) sheets of Drawings without recitation of any Claims for a total of five (5) pages. In comparison, the current application (#10/623478) consists of twelve (12) pages of Specification, six (6) sheets of Drawings, and three (3) pages of 16 Claims for a total of twenty-one (21) pages.

Also, the US provisional application #60/262,867 (first of three) filed on January 18, 2001 does NOT disclose all the claims of current pending US non-provisional application #10/623478 filed on July 18, 2003. The Examiner notes that the US provisional application #60/262,867 was focused on a "software application tool" as reflected in its title "Software Application Tool to Analyze Quality Performance of Supplier Base", which is a "computer program product". The US provisional application #60/291,443---filed on May 16, 2001---consists of nine (9) pages of Specification to include an only "Claim 1" and 2 pages of Drawings for a total of eleven (11) pages, and thus, the Examiner has made a determination that the whole US non-provisional application (#10/623478) is only entitled to the benefit of the filing date of US provisional application #60/291,443. On the other hand, the US provisional application #60/291,443 describes a "method" in its Claim 1, and the current non-provisional application's (#10/623478) focus is also on the "method" as noted in its Claims 1-16. Thus, the Examiner gives application #10/623478 --- the current US non-provisional application --- a priority date of May 16, 2001, when the second (#60/291,443) of

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the three US provisional applications in this matter was filed to the US Patent and Trademark Office.

The Examiner respectfully requests the Applicant to submit in its reply which of its Claims can have priority back to January 18, 2001 based on its filing of the US provisional application #60/262,867, since the Examiner has already determined that not all of the Applicant's claims can have that priority date.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-16 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Independent Claim 1 contains the following deficiency rendering this claim indefinite:

With respect to Claim 1(d), the claim fails to positively recite the process of generating the data/information. The generating step is recited only as an intended result. It is suggested that this step either be canceled or be amended to read as follows: "generating information regarding the quality of performance of the plurality of suppliers by utilizing the single database." The Examiner has interpreted the claim as being so recited.

Dependent Claims 2-16 are also rejected based on the foregoing analysis.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-3, 8, and 14-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over the US Patent #6,199,059 issued to Dahan, et. al. (hereinafter "Dahan") and in view of McKay, et. al. vide Publication No. US 2002/0082891 (hereinafter "McKay").

Claim 1:

With respect to Claim 1, Dahan teaches a method of generating information regarding the quality of performance of a plurality of suppliers that each supply products to a vendor, said method comprising the steps of :

"gathering data regarding (the quality of performance of the plurality of suppliers) in a plurality of different computer databases" (please see Column 3, lines 55-58);

"storing the gathered data from the plurality of different computer databases in a central controller" (please see Column 3, lines 58-66);

"converting the stored data in the central controller into a single database"

(please see Column 3, lines 66-67 to Column 4, line 1); and “generating information regarding (the quality of performance of the plurality of suppliers) by utilizing the single database” (please see Column 3, line 55 to Column 4, line 1, FIG. 3, and Column 6, lines 54-67), but Dahan fails to teach that the gathered/generated data pertains to the quality of performance of a plurality of suppliers. However, McKay in the same field of endeavor teaches gathering/generating the quality of performance of a plurality of suppliers. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the features of McKay as discussed above into Dahan, because the combination of Dahan with McKay would allow non-compatible databases to be searched as described in Dahan and verify the quality of performance data via an audit as described in McKay (please see Page 1, paragraph [0005] and Page 2, paragraphs [0016] and [0017]).

Examiner notes that Dahan inherently teaches “the quality of performance data” as an “attribute” of any virtual object in a database described by Dahan as “the invention allows the presentation and modification of the virtual object’s data even if the data resides in a database external to the invention’s own database” (please see Column 3, lines 49-51).

Claim 2:

With respect to dependent Claim 2, Dahan teaches a method of “gathering data regarding the quality of performance of the plurality of performance of

the plurality of suppliers in a plurality of different computer databases that are non-compatible" (please see Column 3, lines 26-34).

Examiner notes that Dahan's phrase "the search schemas to be independent of the databases" in the sentence, "The virtual object hierarchy 210 allows the search schemas to be independent of the databases." represents the "computer databases that are non-compatible" as claimed.

Claim 3:

With respect to dependent Claim 3, Dahan teaches a method of "converting the stored data in the central controller into a single compatible database" (please see Column 3, lines 26-34, 49-51, and Column 7, lines 10-17).

Claim 8:

With respect to dependant Claim 8, Dahan teaches a method of "processing the stored data in a single database to create a series of quality metrics and using the series of quality metrics to judge the performance of one or more of the plurality of suppliers." (please see Column 6, line 54 to Column 7, line 9, and in Column 7, lines 15-26) in view of McKay for the "performance of one or more of the plurality of suppliers" data (please see paragraphs [0014] and [0015] on Page 2).

Examiner notes that Dahan's "virtual objects" and "user functions" perform similar functions as "to create a series of quality metrics" as well as using those "quality metrics to judge the performance of one or more of the plurality of suppliers.",

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and that a "single database" is described by Dahan in Column 3, lines 23-28 and Column 3, line 66 to Column 4, line 1.

Claims 14-16:

With respect to dependant Claims 14, 15 and 16, Dahan teaches a method to/for "generate a non-conforming material report whenever a defective product is supplied to the vendor" of Claim 14 and "transmitting the non-conforming material report to the supplier" of Claim 15 as well as "requesting a corrective action report from the supplier whenever a non-conforming material report is generated." of Claim 16 (please see Dahan's Column 4, lines 14-59, and Column 6, lines 26-67 to Column 7, lines 1-9) in view of McKay about the "quality of performance" data (please see paragraphs [0019] and [0020] on Page 2).

Examiner notes that Dahan's teachings include "A search schema is potentially a subset of the objects defined in an associated virtual object hierarchy and is used by end user to navigate, classify, search, and retrieve instances of the selected objects in the database(s). As search schema may link to many virtual objects, the search schema can classify and retrieve data from different database management systems." Further, Dahan's teachings include "User functions may be created by a user, and administrator, or the software provider. The user defined may search for and change data in the database 1550. The user-defined functions may perform different tasks such as performing a calculation on data or dynamically cleansing data."

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Claims 4-7 and Claims 9-12

Claims 4-7 and 9-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dahan in view of McKay as discussed in Claim 1 analysis and further in view of US Patent #6,081,840 issued to Zhao, Yan (hereinafter "Zhao"). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the features of Zhao as discussed below into Dahan and McKay, because the combination of "real time" data over the "internet" or a "global communication network" would allow users to have access to this data 24 hours a day on a world-wide-web (www) basis from a computer located anywhere in the world.

Claims 4-7:

With respect to "real time" or "near real time" of Claims 4-7, Zhao teaches this concept, which is recited as follows, "When any management table, collection, or content file update occurs in the source server (i.e., central controller), the source content manager 42 will send a message to the data replication manager 46 to start a data replication. The data replication manager 46 then controls the process whereby the data is copied from the source server to the local server(s). This can also be done on a scheduled basis instead of automatically (i.e., real time) as described above." (please see lines 8-15, Column 7).

All other limitations of dependent Claims 4-7 have been addressed in the independent Claim 1 rejection.

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Claims 9-12:

With respect to "global communication network" of Claims 9-11 and "internet" of Claim 12, Zhao teaches that "The communications network 12 can be any communication network system which allows the source and local servers to communicate with each other and exchange data. The local servers 14 and 16 are connected over the communications networks 18 and 20 to the end users 22, 24, 26 and 28 as illustrated." (please see Column 4, lines 3-15) and Zhao further teaches that "The networks 18 and 20 may be the same as the network 12, or may be different. For example, communications may be by use of the Internet system between all of the components of the content distribution system, or networks outside the Internet, such as LAN's or other dedicated networks, may be used for portions of the network communications interconnecting the servers and users." (please see Column 4, lines 19-41).

Claim 13:

Claim 13 is rejected under 35 U.S.C. 103(a) as being unpatentable over Dahan in view of McKay as discussed in Claim 1 analysis and further in view of the QualTrend software disclosed in the specification of this application, and specifically described in an article titled "QualTrend FAQ's" on the website, www.qualtrend.com, wherein it clearly shows that this "color-coding" is a capability of the QualTrend software and not of this application.

With respect to Claim 13, the "quality of performance" of any supplier is generated "using a color-coding scheme" is a known prior art and a known

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capability of the software package QualTrend. The QualTrend FAQ's article referenced above states, "QualTrend's Dashboard uses a red-yellow-green, "traffic light" style display for identifying areas of non-conformance to pre-defined KPI's; corrective action resources can be immediately directed to areas requiring attention. Additional custom dashboards can be created, and alarms pro-actively triggered to respond and notify anyone in the system." (please see answer to the last question at end of page 2 of the enclosed article from the QualTrend website); and this is identical when compared to this applicant's Specification from Page 6, line 29 to Page 7, line 5; wherein is described the use of "color-coding scheme" with the color "green" as "first range" (i.e., safe range), color "yellow" as "second range" (i.e., caution range), and color "red" as "third range" (i.e., danger range). Further, the Examiner respectfully requests the inventors and/or the assignees to explain the capabilities of all the software packages described in their 12-page Specification, including QualTrend and WinSPC, as well as provide proper documentation of the capabilities of these software packages for the priority date claimed by the applicant (January 18, 2001) as well as the priority date determined herein by the Examiner (May 16, 2001).

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure is:

1. Ben Porat, et. al., Publication Number WO 01/ 04775 A2
claiming priority date of July 14, 1999 and titled: "A Method for
Constructing a Homogeneous Electronic Catalog".

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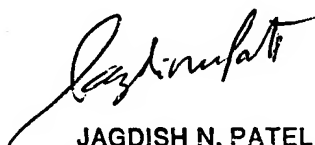
2. Wetherbee, Jonathan per US Patent #5,937,409 claiming
priority date of July 25, 1997 and titled: "Integrating Relational
Databases in an Object Oriented Environment".

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sanjeev Malhotra whose telephone number is 571-272-7292. The examiner can normally be reached on Flexible schedule.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James A. Kramer can be reached on 571-272-6783. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

SM



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